

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 5, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 5, 2016 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey; Bob Dool; Bill Ellison; Matt Goolsby (Out @3:20 p.m.); David Foster; Joe Johnson; Debra Miller Stevens; Bill Ramsey (In @ 1:33 p.m.); Lowell Richardson; John Todd and Chuck Warren. Members absent were: John McKay Jr. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Administrative Supervisor; Sharon Dickgrafe, Chief Deputy City Attorney; and Maryann Crockett, Recording Secretary.

CHAIR NEUGENT introduced County Manager Mike Scholes.

1. Approval of the April 7, 2016, Planning Commission Minutes.

MOTION: To approve the April 7, 2016 Planning Commission minutes.

DENNIS moved, **JOHNSON** seconded the motion, and it carried (11-0-1). **MILLER STEVENS** – Abstained.

RAMSEY (In @ 1:33 p.m.)

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2016-00015: One-Step Final Plat - SANDCREST ADDITION**, located on the southeast corner of 29th Street North and Hoover Road.

NOTE: This is a replat of Pearl Beach Addition which includes a revised street layout.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that the applicant needs to extend water to serve all lots (transmission and distribution) and extend sewer to serve all lots (mains and laterals).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage concept plan.
- D. The plat proposes one street opening along Hoover and a 60-foot emergency access opening along 21st Street North. A note on the face of the plat indicates that the emergency access opening shall become a full movement opening at such time as 29th Street North is paved. Traffic Engineering has approved the access controls.

- E. City Fire Department has approved the street lengths of Gulf Breeze Ct (~1250 feet) and Wavecrest Cir (2150 feet). The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. The Subdivision Committee may recommend a modification of the design criteria in Article 7 of the Subdivision Regulations if it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- F. City Fire Department advises the Reserve B median appears to block access and would make a left turn onto Wavecrest impossible for a fire apparatus. Reserve C will also be a hindrance to this turn and to any turns out of Wavecrest and onto southbound Curtis. The applicant will reduce the lengths of Reserve B and C to allow for proper fire circulation.
- G. Traffic Engineering has required “No Parking” on both sides of Curtis Street and Sandcrest Street adjoining medians. A restrictive covenant shall be provided specifying the No Parking requirement.
- H. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- I. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- J. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for emergency access easements and for sidewalks on at least one side of Sandcrest Street and Curtis Street.
- K. The emergency access easement shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City/County Fire Department standards.
- L. Since Reserve J includes a swimming pool, a site plan shall be submitted with the final plat for review by MAPD. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.
- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners’ association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- N. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- O. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- P. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- Q. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- R. GIS has approved the street names.
- S. Due to the northwest corner of the plat zoned Limited Commercial (LC), a zone change to SF-5 Single-Family Residential is needed. In the alternative, a "restrictive covenant for zoning restriction" may be provided limiting the site to SF-5 uses.
- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- X. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- CC. Westar Energy has requested additional easements. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- DD. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **DENNIS** seconded the motion, and it carried (13-0).

3. PUBLIC HEARING – VACATION ITEMS

- 3-1. VAC2016-00015: City request to vacate an access easement dedicated by separate instrument**, on property generally located a 1/4-mile south of 29th Street North on the east side of Maize Road.

APPLICANT/ AGENT: East Side Investments LLC, c/o Bradley Seville (applicant) Kaw Valley Engineering, c/o Tim Austin (agent)

LEGAL DESCRIPTION: Generally described as vacating the east 25 feet of the access easement dedicated by separate instrument located on Lot 2, Block 1, Central Park Plaza Addition, Wichita, Sedgwick County, Kansas; (Doc#/FLM-PG: 29235029, recorded August 15, 2011)

LOCATION: Generally located a 1/4-mile south of 29th Street North on the east side of Maize Road (WCC #V)

REASON FOR REQUEST: To allow an electrical transformer in the northeast corner of the vacated subject access easement

CURRENT ZONING:

The site and abutting south, west and north properties are zoned LC Limited Commercial. The abutting east property is zoned SF-5 Single-Family Residential. The site is also located in CUP DP-336.

The applicant proposes to vacate the east 25 feet of the access easement dedicated by separate instrument located on Lot 2, Block 1, Central Park Plaza Addition; Doc#/FLM-PG: 29235029, recorded August 15, 2011. The access easement runs on and parallel to the north property line of Lot 2, Block 1, Central Park Plaza Addition, from Maize Road to the east property line of the subject lot. There is also a 50-foot wide drainage easement running parallel to the subject property's north side. Per the dedication, the purpose of the subject access easement is to provide access for light-duty maintenance equipment. The length of the access easement has utility easements located and the portion of the access easement proposed to be vacated has a water line located in it. The applicant proposes to dedicate a utility easement in place of the vacated portion of the access easement in order to place an electrical transformer; see attached dedication of utility easement. Condition # 3 covers Westar, as this is to accommodate equipment for Westar to serve the applicant. Richard Aitken is the Construction Services Representative for this item and can be contacted at 261-6734. The Central Park Plaza Addition was recorded with the Sedgwick County Register of Deeds February 28, 2012.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of access easement dedicated by separate instrument.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time April 14, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the access easement dedicated by separate instrument and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Per the approval of the Traffic Engineer, Fire, and Public Works vacate the east 25 feet of the access easement dedicated by separate instrument located on Lot 2, Block 1, Central Park Plaza Addition; Doc#/FLM-PG: 29235029, recorded August 15, 2011. Provide a legal description of the approved vacated portion of the access easement on a Word document, via e-mail, to Planning to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.

- (2) Provide a dedication of a utility easement with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, Fire, and Public Works vacate the east 25 feet of the access easement dedicated by separate instrument located on Lot 2, Block 1, Central Park Plaza Addition; Doc#/FLM-PG: 29235029, recorded August 15, 2011. Provide a legal description of the approved vacated portion of the access easement on a Word document, via e-mail, to Planning to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Provide a dedication of a utility easement with original signatures, to Planning Staff prior to the case going to City Council for final action and subsequent recording at the Register of Deeds.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **WARREN** seconded the motion, and it carried (13-0).

PUBLIC HEARINGS

4. **Case No.: ZON2016-00012 and CON2016-00007 (Deferred from 4-21-16)** - John & Linda Palmer and Brunswick Properties, LLC (owners/applicants) and Kaw Valley Engineering, c/o Tim Austin (agent) request a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential to allow ancillary parking (CON2016-00007), an amendment to PO -300 to allow a restaurant and a 10% reduction of the compatibility setback on property described as:

Lot 3, Westview 2nd Addition, Wichita, Kansas, Sedgwick County, Kansas

Together with

The South 160 feet of Lot 9, Block D, Westview Addition, Sedgwick County, Kansas.

CHAIR NUEGENT announced that there has been a request to defer the item; however, she added that there were members of the public present who expected the Commission to hear the item today. She asked the Commission if they would like to go ahead and take public comment.

DAILEY said he would like to hear what the public present has to say because they may not be able to come to the next meeting.

RICHARDSON asked why the item was being deferred.

CHAIR NEUGENT asked staff to respond.

LONGNECKER reported that DAB V heard the case and that body recommended denial 5-4 citing neighbors' concerns regarding non-residential commercial traffic on Brunswick.

RICHARDSON said the issue is why this matter is being deferred when the Commission has already deferred the case once. He asked why doesn't the Commission just defer the item for 6-8 months.

LONGNECKER said the applicant's agent is looking at the possibility of a cul-de-sac or hammerhead on Brunswick. He said he received an e-mail request yesterday morning from the agent to defer the application. He said he has no other information on any new developments on the case and no updated site plan. He said it is up to the Commission whether they want to proceed to hear the item or defer it.

RICHARDSON commented that his concern was for the neighbors who have been here twice now plus attending the DAB meeting so far with no resolution which is a real inconvenience for them. He said it seems like they asked the applicant about a cul-de-sac the last time this was heard and the applicant said no.

WARREN said it is difficult for the Commission to make a decision with limited information or just one side. He asked if any of the members of the public that were here today could come back in two weeks. He suggested that the public who cannot be present in two weeks be allowed to speak but asked that other speakers refrain until the Commission gets the whole picture on the case.

MOTION: To defer the application two weeks and take public comment at this meeting.

WARREN moved, **JOHNSON** seconded the motion, and it carried (13-0).

DENNIS said he would like to hear the neighbors' comments about the proposed cul-de-sac or hammerhead that would keep traffic off of Brunswick.

He said the only thing that has changed is a willingness on the part of the applicant to look at a cul-de-sac or hammerhead on Brunswick that would keep commercial traffic off of Brunswick.

JOHNSON asked whose property would the hammerhead be on.

LONGNECKER said the hammerhead would have to be located on the applicant's property.

JOHNSON asked if the adjacent property owners who will not be able to go south on Brunswick were at the DAB meeting and if they were okay with that proposal.

LONGNECKER said several neighbors were at the DAB hearing.

JOHNSON clarified that the restaurant will have no drive-up window.

LONGNECKER responded yes, and said it would be NR zoning which allows only 2,000 square feet for a restaurant with no drive-thru or curb service and 8,000 square feet of retail.

DIRECTOR MILLER clarified that NR zoning limits any individual commercial use to 8,000 square feet but the applicant can have a building as big as they can fit onto the lot.

MILLER STEVENS referenced the decision that the Commission made regarding this property 6-8 months ago. She asked what was staff's rationale for recommending approval of this application; and why the Commission should reverse the decision they made on the property previously.

LONGNECKER referenced the original Staff Report for case ZON2015-00031 and said staff did not have a restaurant as a prohibited use. He said the applicant's agent withdrew that use at the Planning Commission meeting.

RICHARDSON asked if there were regulations regarding odors from restaurants and if so, who enforces that.

LONGNECKER deferred to legal counsel.

SHARON DICKGRAFE, CHIEF DEPUTY CITY ATTORNEY referred to the City Code and said MABCD or Public Works Environmental Health would be the enforcing agent. She later reported that Chapter 7.42 of the City Code regulates Objectionable Odors; however, odors from restaurants or food preparation is exempted as an objectionable odor.

WARREN said the questions being asked need to be asked when the applicant and agent are present. He requested that the Commission not try to hear the case right now and open it up to the public who are here to speak.

CHAIR NEUGENT asked if the applicant or agent were present. There was no response.

DAILEY clarified if a member of the public speaks today, they can speak again at the next Planning Commission meeting.

CHAIR NEUGENT commented that in the past, the Commission has always allowed additional public comment on deferred cases.

PAT O'BRYAN, 221 SOUTH BRUNSWICK said he didn't know anything about the proposed cul-de-sac that is something new and could be the worst case scenario. He commented that six months after the Outback was built, the basements of 227 and 233 South Brunswick flooded. He said the City and Outback butted heads and neither one would take the blame and just kept pointing fingers at each other. He said they already have a problem and the sewer department comes out to check the Outback regularly and now they want to put another restaurant. He said it is like a shell game between developers to try to get something past the neighborhood. He said they want to see if they can win and if they miss and didn't get that one, they will try again to see if the neighborhood finally can't figure it out. He said they do not want the entrances to this site on Brunswick. He said they already have a problem with beer bottles on the street and the trash from Lowe's. He said the trees and fence as a barrier aren't going to work. He said they tried that with Horton's and they just let the evergreens die. He said the neighbors want a wall, because evergreens die and fences are easy to tear down. He said the entrances on Brunswick will kill the neighborhood and turn this into a mini Ridge Road.

DAVID WOODROW, 140 SOUTH BRUNSWICK said he did a quick survey of the area and from the Outback restaurant on Ridge Road south to Kellogg there are 18 full service restaurants and takeout food service businesses. He asked when is enough too much; how many restaurants do they need in the area. He mentioned a property that was available a couple of hundred feet west on the south side of Maple that is zoned LC and has plenty of access so that would be a good place for a restaurant. He also noted that Brunswick is not a through street in this area that it runs from Maple up to First Street, and there are no sidewalks on either side so foot traffic is in the street. He said any increase in traffic will become a serious safety hazard to anyone walking along the street in addition to the numerous small children who ride their bikes in the area.

DAILEY asked Mr. Woodrow what were his feelings about a hammerhead or cul-de-sac.

WOODROW said if a restaurant has to go in at this location that might be a workable situation. He said he lives several houses up north so lighting, trash and odors don't really affect him, his main concern is traffic.

ELLISON noted that Douglas is blocked off with a fence and asked if that was at the request of the neighborhood.

WOODROW responded that he didn't know.

JEFF DROURHARD, 102 SOUTH BRUNSWICK said he is concerned about his children's safety and mentioned his three year old daughter riding her bike. He said it would be a shame to have to leave the neighborhood to do things with his kids.

DAILEY asked about the fence across Douglas.

KNEBEL said staff will research the fence on Douglas and include that in the revised Staff Report.

FOSTER asked if it was standard policy that whenever an applicant asks for a deferral they are automatically going to get it or can the Commission make a motion either way.

DICKGRAFE replied that the scheduling of any kind of application hearing is up to the discretion of the Commission, that they have policies and procedures and it is not an assumption that the Commission will grant a request for deferral.

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5. **Case No.: ZON2016-00013 (Deferred from 4-21-16)** - Ronald Palecki Living Trust (owner/applicant) and Baughman Company, P.A., c/o Russ Ewy (agent) request a City zone change from SF-5 Single-family Residential to LC Limited Commercial on property described as:

The South Half of Lot 49, Westfield Acres Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking LC Limited Commercial ("LC") zoning for future commercial uses on 1.26 acres located on the west side of South Tyler Road, approximately 660 feet north of West Maple Street. The subject site abuts LC zoned property along the south property line and is platted. If approved, the LC zoning would permit the development of commercial uses on the site, limited by a proposed Protective Overlay ("PO") by staff.

Properties north, west and east (across Tyler Road) of the subject site are zoned SF-5 Single-family Residential and developed with single-family residences. Property south of the subject site is zoned LC and is developed with Harp Well and Pump Service, a legal, non-conforming use that was permitted to expand in 1984 by the Wichita Board of Zoning Appeals (BZA 45-84).

CASE HISTORY: The property is currently platted as the West Field Acres Addition, which was recorded in March 1930.

ADJACENT ZONING AND LAND USE:

North:	SF-5	Single-family Residences
South:	LC	Office and Warehousing
East:	SF-5	Single-family Residences
West:	SF-5	Single-family Residences

PUBLIC SERVICES: The site is served by all usual municipal and private utilities and services. Tyler Road at this location is a four-lane, paved, minor arterial.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan depicts the site as appropriate for “residential” use. The “residential” use category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. However, directly south of the subject site, that property is depicted as appropriate for “industrial” uses. The “industrial” use category encompasses areas that reflect the full diversity of industrial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Community Investments Plan indicate that commercial and employment centers should be located at intersections of arterial streets. The requested zone would expand the size of the commercial center permitted at the intersection of Tyler Road and Maple Street.

RECOMMENDATION: Based upon the information available at the time the staff report was completed, staff recommends approval of the request, with a Protective Overlay (PO) which states:

1. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted on the face of any building that is adjacent to any property that is residentially zoned.
2. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs shall be monument –style and limited to 15 feet in height. No LED signs shall be permitted.
3. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.
4. Outdoor speakers and sound amplification systems shall not be permitted.
5. No buildings shall exceed one story in height with a maximum building height of 25 feet.
6. At the time the site is developed, the owner shall install and maintain a 6-8 foot high screening fence/wall located parallel to the north and west property lines of the subject site, where it abuts existing residential zoning.
7. At the time the site is developed, landscaping shall be installed that meets the Landscape Ordinance.
8. The following uses shall not be permitted: adult entertainment establishment; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties north, west and east (across Tyler Road) of the subject site is zoned SF-5 Single-family Residential and developed with single-family residences. Property south of the subject site is zoned LC and is developed with a warehouse and office development.

2. The suitability of the subject property for the uses to which it has been restricted: The site is bordered by LC development to the south. Across Tyler Road to the east, the properties are zoned SF-5 and developed with residential uses. The property is zoned SF-5, which primarily permits by-right single-family residences and a few civic or institutional uses, such as churches or schools on large lots. Presumably the site could be redeveloped with single-family residences that would have the potential to provide an economic return or continue to be undeveloped; however, the site's adjacency to a heavy commercial use and an arterial street could limit its marketability as a residential property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended provisions of the Protective Overlay regarding uses, signage, lighting, screening, and landscaping should mitigate any increased negative impact on nearby residential property.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Given the nearby commercial uses and the location of the property on a major arterial street, SF-5 zoning could cause economic hardship to the owner. LC zoning is appropriate for this location and provides economic viability of the property for the owner.
5. Length of time the property has been vacant as currently zoned: The site had a single-family house that appears to have been vacant for multiple years given the state of deterioration that was evident that has since been removed from the site.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan depicts the site as appropriate for "residential" use. The "residential" use category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. However, directly south of the subject site, that property is depicted as appropriate for "industrial" uses. The "industrial" use category encompasses areas that reflect the full diversity of industrial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Community Investments Plan indicate that commercial and employment centers should be located at intersections of arterial streets. The requested zone would expand the size of the commercial center permitted at the intersection of Tyler Road and Maple Street.
7. Impact of the proposed development on community facilities: Existing or proposed improvements are in place to address anticipated demands.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He reported that the DAB recommended approval by a vote of 7-0-1 with the PO requested by staff. He said there was discussion about changing the request to NR and not LC with a PO. He said NR would allow building heights to 35 feet and the PO recommends 25 feet, he added that NR also would not allow specific uses such as adult entertainment, car wash, restaurant with drive thru, service station and tavern so those would not be included in the PO if the Commission recommended NR zoning. He said NR also allows restaurants up to 2,000 square feet; however, the applicant has indicated they would eliminate the restaurant use as well.

RICHARDSON clarified that the DAB approved the LC zoning with the PO.

SLOCUM replied that was correct.

RUSS EWY, BAUGHMAN ENGINEERING, AGENT FOR THE APPLICANT, 315 ELLIS said at the DAB meeting he offered NR zoning and keeping staff's recommended PO as well as a full exclusion of restaurants. He said the DAB discussion left the tracks in several different locations, but the motion was to approve the application per staff recommendation as LC with the proposed PO. He added that the only additional condition DAB requested was prohibition of duplexes. He asked the Commission if they would entertain the idea of approving NR with the recommended PO with the three following additions: 1) limiting hours of operation for trash pickup to between 10:00 a.m. - 6:00 p.m.; 2) elimination of restaurants as a permitted use; and 3) add duplex as a prohibited use.

SLOCUM pointed out that the PO also states no multi-family.

EWY said the applicant would be willing to do a prohibition on duplexes and multi-family with the exclusion of a townhome.

FOSTER asked if there were any new findings on the drainage.

EWY said his applicant has spoken to the neighbor.

CRAIG HOGUE, 8833 WEST DOUGLAS said he has lived on this block for 20 years. He said it is his slice of heaven. He said he did research before he bought his home and he is the second largest landowner in this quarter section. He said he has met with City staff; DAB; this Commission and his neighbors about this rezoning project. He said the current owner of this property purchased it as a speculative investment and the risk and reward is subject to this Commission's handing off a "golden reward." He said the applicant hired the best team to create the greatest reward. He said the change will have a short term financial gain, but only if the Commission rewards the applicant the maximum commercial use. He said the applicant's interest is only in one small area of a much larger quarter section, just one lot out of 35. He referred to the last case and said someone rezones the property and someone else buys it.

HOGUE said the location is suitable for a day time office that would blend into the common use of all properties at the location. He said the agent will refute that, but that is their job. He said future development of this neighborhood will be gravely impacted by this rezone and the application is not conforming to the future land use at this location. He said he preferred no change in zoning; however, he would agree to accept a change in application to NO with a restrictive overlay matching the Beard Addition (the last rezoning in the area) with a PO and lot platting matching the Sinclair Addition (the property located south of this location). He gave a brief history of the rezones, lot splits and replats that have occurred within this quarter section which includes Johns, Westfield 3, Cannonball and the Sinclair Additions. He said the lot south of this location is currently being used as NO for an insurance agency and small office.

MOTION: To give the speaker two additional minutes.

WARREN moved, **JOHNSON** seconded the motion, and it carried (13-0).

HOGUE said this City has a large number of assets on this land including utility easements and future road dedications. He said current and future street access and expansion of Tyler and Maple is not addressed in the application. He said he has 20 years invested in this area so please allow him the same rights as agents and applicants.

HOGUE said the DAB meeting was a “split meeting”. He said it was rushed and time was not allowed for the homeowners in the area to respond. He said this process must be fair to all and asked the Commission not to put a rubber stamp on the request as made because the area is too valuable, this changes too many lives, the property value and it changes the future of this entire quarter section. He said he is a resident, investor and citizen of Wichita, USA.

DAILEY asked Mr. Hogue what properties he owns and the uses.

HOGUE referred to an aerial of the quarter section and pointed out his home and properties he owns in addition to the land owned by his neighbors. He said he uses the land as his utopia, but it is potentially developable land.

JOHNSON asked what was the DAB vote.

HOGUE responded that the DAB was split on the issue. He said one DAB member wanted to defer the item because it seemed to him that there was more information that needed to be addressed.

SLOCUM referred to the DAB memo and reiterated that the DAB motion was 7-0-1 to approve the LC zoning and PO as recommended by staff.

JOHNSON asked why the DAB was in favor of the application.

HOGUE stated the DAB was not in favor of it. He said they requested that it be deferred and Mr. Frye suggested that the issue needed to be resolved at the Planning Commission Meeting. He said it was then suggested if the neighbors did not like the results of the Planning Commission Meeting they could appeal the decision. He continued by saying that he was agreeing to an NO with the overlay placed on other projects in the area.

LONGNECKER reported that he attended the DAB hearing on this item where it was voted (7-0-1) to approve the application for LC zoning with the prohibition of no multi-family and no duplexes.

CHAIR NEUGENT clarified so the DAB voted unanimously to approve the application; however, the Commission is getting information from the public that the DAB was not in favor of the application. She asked staff if they could enlighten the Commission further.

LONGNECKER said the neighbors were protesting extension of the LC zoning. He said the neighbors noted that the zoning pattern established on the northwest and northeast intersection was from LC to NR as it extended further into SF-5 zoning. He said they preferred either NR or GO zoning which they felt would follow the similar zoning pattern that had been established in the area. He reiterated that the neighbors don't want LC zoning. He said multi-family and duplexes are allowed in the LC zoning district and there were concerns about traffic, density, etc., so that is why the DAB recommended the prohibition on multi-family and duplexes.

RAMSEY asked what Mr. Hogue is afraid of that the applicant is going put in there that he is so adamantly against this.

HOGUE said he does not think the applicant is complying with the lot restrictions. He said the next purchaser needs to be aware of what the proposed purpose is. He said the property is for sale and the neighbors have no way of governing who considers it at what value. He said this was a speculative purchase and the house was torn down so now it is a vacant lot. He said the NO with the restrictive overlay makes it look like a residence. He said they want the property to look like it is supposed to be in the neighborhood and they don't want someone putting in a strip mall.

RAMSEY clarified so his fear is that this will not look like the rest of the neighborhood.

HOGUE replied that is correct.

JEFF COOPER, 125 SOUTH TYLER ROAD said he is the lucky guy right next to this location. He said he is afraid of a bunch of duplexes going in there. He said at the last meeting added to the PO was no multi-family or duplexes. He said he would like that to include any type of townhome. He said his lot is 1 1/3 acres and he gardens back there. He said the decisions that are made today are going to be what is going on 30-50 feet outside his bedroom windows. He asked the Commission to consider NR which he felt was a lot more neighborhood friendly. He said he thought the proposal was for NR based on the last meeting. He said of course he would like NO with the existing overlays. He asked for clarification in the PO regarding a "6-8 foot screening fence/wall to be built to the north and west". He said he would like to see it say an 8-foot wall and remove the screening fence verbiage. He said his mom lives next to Outback and they have a wall which is a great divider. He said fences get blown down. He said the wall is a better protector as far as eliminating sound and car lights coming into his home.

ELLEN RYAN, 150 SOUTH BYRON said the property being discussed has SF-5 residential zoning and it is surrounded on three sides by well-maintained SF-5 homes. She said the property owner bought the home and land at auction in 2015 and added that he owns the property and home directly west of this ground which his son and family currently reside in. She said when the property owner approached them after he had torn down the home he stated that he would like to put up an office building or possibly a couple of duplexes. She said they agreed and said they would not protest. She said at that time he mentioned that his son was going to be moving and mentioned tearing down that house and adding duplexes. She said that would create rows of duplexes from Tyler to Byron. She said she and her husband responded that they would protest that plan. She said the property needs to be developed now that the ground is vacant. She said now the property is for sale and they are requesting LC zoning. She said the property owner isn't interested in what is viable for the area; he is only interested in changing the zoning for a profit.

RYAN referenced the Staff Report and the statement about causing the property owner a financial hardship. She said he bought the property at auction as SF-5 and tore down the house and now wants it rezoned to LC. She said LC zoning just lets someone else creep back in here and start this whole process over again. She said putting in NO with a whole lot less overlays would make more sense as to what this location should be used for. She said she felt it would have been better to try to rezone the

ground before destroying the existing home. She asked the Planning Commission to take that into consideration when they make their decision. She said rezoning should not occur because someone razes an existing building and then runs and says they are going to have a financial hardship.

RYAN said as far as the DAB meeting was concerned, she was never so disappointed in a group of people. She said DAB did not give the neighbors the time of day. She said when you have the agent saying that they will go with NR zoning and the DAB approves LC; the DAB doesn't even know what they are talking about. She said DAB never gave the public the time of day. She said there wasn't a person standing there that wanted to go with LC zoning not even the applicant. She said the neighbors weren't even heard that day so please do not take stock in what the DAB recommended. She said one person on the DAB stood up and said this is not right. She said other than that, no one heard a word the neighbors said and just said let's move on this is dragging on too long.

LARRY RYAN, 150 SOUTH BYRON said his big thing is most LC near residential is buffered by NR, which he feels this should be. He said this is putting LC zoning 760 feet from the intersection. He asked how far are we going to let this development run without slowing it down. He said NO would fit into this area really well. He said just because the street is busy doesn't mean it has to be zoned commercial. He referenced the Staff Report regarding economic hardship for the owner because the property is located next to LC zoning. He asked if this is rezoned, what about the property to the north of this location. He said he believes his home will go down in value if this location is developed with either commercial or multi-family he just doesn't know how much. He also referenced the comment in the Staff Report on page 3, item 2 that stated the location could potentially be redeveloped with SF-5 for economic return. He said the Staff Report was incorrect when it said the site is adjacent to heavy commercial which could limit its marketability as residential. He said Hartwell is not heavy commercial, it is light commercial. He said if this doesn't work out, the property owner will have a great backyard. He concluded by stating that being 760 feet from the intersection he would hope that the Commission holds the rezone to NR with restrictive overlays. He said across the street on Tyler all commercial development stops at 400 feet. He said the applicant indicated that LC with protective overlays makes the zoning like NR, but LC allows 75 dwellings units per acre. He said NO would allow 14 units per acre. He said if the overlay for no duplexes or multi-family is not adhered to, this type of development can happen here.

DAILEY asked what the property went for at auction.

RYAN said he doesn't know how relevant that is to this zoning request but he said he believed around \$100,000.

AVIS M. GREENSTREET, 145 SOUTH BYRON said she and her husband came to the last Planning Commission Meeting and they also attended the DAB Meeting. She said they would rather see this property residential. She said this commercial rezoning just keeps going and going and pretty soon they won't have a residential area there. She said they have been in their home since 1980. She said it is a great neighborhood where everyone knows each other. She said she agreed with the one lady at the DAB meeting who said that this issue needed to be postponed because there just wasn't enough time to find out all the information relevant to the case. She concluded by saying that she thought this location should stay as residential.

EWY said he would like to add a definition of townhome. He said there was not a lot of discussion regarding possible residential use at the last Planning Commission meeting; however, at the DAB meeting it just seemed to gravitate to somehow the applicant was just going to construct a row of duplexes along Tyler. He said the property is not zoned for duplex and would require another public hearing if the applicant wanted to do something along those lines. He said the will of the DAB Board was to prevent multi-family and duplex. He said the applicant asked him to ask for townhomes at the very least. He said they are willing to give up duplexes and multi-family. He said their definition of townhomes is “three detached single-family structures allowed on one lot.” He said they would be willing to add that definition to the PO. He said an 8- foot wooden fence is already constructed on some of the property so once this gets approved they will finish with the screening and landscaping per the UZC which does not require a masonry wall.

WARREN asked the agent to clarify what zoning the applicant is asking for.

EWY clarified they are willing to accept NR with the PO included by staff including limiting trash pick not between the hours of 10:00 p.m. and 6:00 a.m., prohibition of restaurants; prohibition of duplex and multi-family with the exception of townhome as he defined above. He commented that he led off with that offer at the DAB meeting and by the time the DAB made the motion, they simply moved to approve per staff comments with no duplex and multi-family.

FOSTER asked about the fencing.

EWY said it would be galvanized steel posts and wood fencing.

ELLISON asked about NO zoning and the type of structures allowed.

EWY said NO simply prevents retail development.

SLOCUM clarified there are no design restrictions.

DICKGRAFE added that there are height and setback restrictions.

MOTION: To approve NR zoning with the PO including no multi-family or duplexes but allow three detached single-family structures on one lot; limitation of times of trash pickup and no restaurants.

RICHARDSON moved, **WARREN** seconded the motion.

FOSTER suggested adding galvanized steel posts for the fencing.

The **MOTION WAS AMENDED** to add galvanized steel post for the fencing with permission of the second.

WARREN said he believes duplexes take a bad hit and added that he has lived in duplexes most of his adult life. He said he believes the definition offered by the agent for townhomes is more than acceptable and that they can be a good asset to the neighborhood.

DIRECTOR MILLER asked for clarification on the motion.

JOHNSON said he would be voting against the motion because he believes people who live in single-family residential zoning have the right not to see encroachment into their area unless they agree to it.

The **MOTION** carried (12-1). **JOHNSON** – No.

6. **Case No.: ZON2016-00015** - Tommy Ly (owner/applicant) requests a City zone change from SF-5 Single-family Residential to LC Limited Commercial on property described as:

Beg NE cor Reserve E th W 135 ft S 45 ft E 135 ft N to beg exc E 10 ft deed for st. Lawrence's 2nd Add.

BACKGROUND: The applicant requests LC Limited Commercial (LC) zoning on a 0.13-acre platted parcel. The SF-5 Single-family Residential (SF-5) zoned site is developed with a single-family residence built in 1920. The site has 45 feet of frontage along South Seneca Street and 130 feet of depth. The site is 120 feet north of the West Maple Street intersection. The applicant also owns the GC General Commercial (GC) zoned property to the south, developed with a convenience store and gas station. The applicant intends to develop the site with a commercial use. The site is located within the Delano District, a commercial district serving West Wichita with a variety of commercial, personal service and entertainment uses since the 1870's.

The site is within the Delano Neighborhood Plan area and the Delano Overlay Neighborhood District (D-O). Any development or changes on the site will be reviewed by the Delano Design Review Committee for consistency with the Delano Neighborhood Design Guidelines. The Delano Neighborhood design guidelines would require a 10-foot landscaped building setback along South Seneca and parking lot screening with a three to four-foot tall masonry screening wall with wrought iron. The Unified Zoning Code (UZO) would require non-residential development on this site to provide screening from the residential site to the north and west. The UZO would require a 25-foot compatibility setback from the north side property line where abutting residential zoning and a 15-foot building setback on the western rear property line. Development on the site is required to meet the UZO parking requirements.

North of the site, along South Seneca, is a mixture of SF-5, TF-3 Two-family Residential (TF-3), MF-18 Multi-family Residential (MF-18) and B Multi-family Residential (B) zoning. North of the site is a vacant lot, further north are single, duplex and multi-family residences and a church. South of the site is a GC zoned convenience store and a B zoned assisted living facility. East of the site, across South Seneca, are GC zoned contractor and vehicle sales uses. West of the site, along South Dodge Avenue, are B, MF-18, TF-3 and SF-5 zoned retail, office, single and multi-family residential uses.

CASE HISTORY: The site was platted as a portion of Reserve E of the Lawrences 2nd Addition in 1885. The Delano Neighborhood Revitalization Plan was adopted in 2001. This site was rezoned from GI General Industrial (GI) to SF-5 as part of a Delano Neighborhood Revitalization Plan implementation rezoning in 2003.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, TF-3, MF-18	Single-family, duplex and multi-family residences, church
SOUTH:	GC, B	Convenience store, assisted living
EAST:	SF-5, GC	Church, contractor sales and services

WEST: MF-18, SF-5, B Single-family residences, multi-family residences

PUBLIC SERVICES: South Seneca Street is a paved, four-lane arterial street at this location with an 80-foot right-of-way. South Seneca has a central median and turn lane adjacent to the site, and therefore will not have northbound Seneca Street left-turn access. Sidewalks exist on both sides of Seneca. The site currently has no driveway access to South Seneca. The site has rear access to an unpaved, dedicated 15-foot service alley. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The Delano Neighborhood Plan map depicts the site as appropriate for “commercial mixed use.” The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan promotes downtown as the region’s preeminent walkable, mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. The Plan’s *2035 Wichita Future Growth Concept Map* identifies this location as “commercial,” encompassing areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices and personal service uses are located in close proximity to, and potentially mixed with, residential uses.

RECOMMENDATION: Staff notes that this is a small site, and will likely be used in support of or in conjunction with the applicant’s commercial property to the south. Staff also notes that access to this site from South Seneca would not meet the Access Management Guidelines spacing requirement from the nearest access point to the south. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to dedication of complete access control to South Seneca Street, and recording a cross-lot access agreement with the property to the south.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** North of the site, along South Seneca, is a mixture of SF-5, TF-3, MF-18 and B zoning. North of the site is a vacant lot, further north are single, duplex and multi-family residences and a church. South of the site is a GC zoned convenience store and a B zoned assisted living facility. East of the site, across South Seneca, are GC zoned contractor and vehicle sales uses. West of the site, along South Dodge Avenue, are B, MF-18, TF-3 and SF-5 zoned retail, office, single and multi-family residential uses.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could continue to be used as a single-family residence.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The bordering SF-5 zoned lot to the north is vacant. Future development on that site, and existing residences further north and west of the site, could be impacted by commercial development on the application area. Code required screening, landscaping and compatibility standards should mitigate impact on surrounding residences.

- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval will make the property more marketable with a wider range of possible uses. Denial would presumably represent a loss of economic opportunity to the applicant or property owner.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Delano Neighborhood Plan map depicts the site as appropriate for “commercial mixed use.” The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the downtown core and mature neighborhoods surrounding it in a roughly three-mile radius. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan promotes downtown as the region’s preeminent walkable, mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. The Plan’s *2035 Wichita Future Growth Concept Map* identifies this location as “commercial,” encompassing areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices and personal service uses are located in close proximity to, and potentially mixed with, residential uses.
- (6) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure. Requiring shared access with the commercial property to the south will mitigate traffic conflicts caused by commercial development on the site.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

TODD moved, WARREN seconded the motion, and it carried (13-0).

7. **Case No.: ZON2016-00016** - HS5, LLC c/o Mike Strelow & K-2 Properties, LLC, (applicants/owners) request a City zone change from SF-5 Single family Residential to TF-3 Two-family Residential on property described as:

Beginning 758.8 feet South of the Northwest corner of the Northeast Quarter of Section 5, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence South 94.5 feet; thence East 295 feet; thence South 213 feet; thence East 620 feet m/l to the center of Chisholm Creek; thence Northwesterly to a point 758.8 feet South of the North line of said Northeast Quarter; thence West 658 feet m/l to beginning except canal.

BACKGROUND: The applicants are requesting a zone change from SF-5 Single-family Residential (SF-5) to TF-3 Two-Family Residential (TF-3) zoning on a 3.1-acre undeveloped tract. The irregular shaped tract is located approximately 600 feet north of West 27th Street North on the east side of North Arkansas Avenue. The site has access onto Arkansas Avenue. A drainage channel abuts the east side of the site. The applicant intends to build 10-12 duplexes on the site. If the TF-3 zoning is approved the site will have to be platted with public street right-of-way and individual lots for each duplex. A Conditional Use is required for developing multiple duplexes on one lot in the TF-3 zoning district. The Unified Zoning Code (UZO) requires a minimum of 6,000-square feet per duplex, with a 35-foot minimum lot width.

This is a mature neighborhood with a mix of TF-3 and SF-5 zoned properties, with most of these properties developed as single-family residences and scattered duplexes. LC Limited Commercial (LC) zoned properties are located south and north of the site, at the intersections of 29th Street North and Arkansas and 25th Street North and Arkansas. These LC zoned properties are developed (but not limited to) with small restaurants, a convenience store, retail strip buildings, small commercial buildings, a small two-apartment building, vehicle repair garages, a car sales lot, single-family residences, a market. There appears to be some small vacant commercial buildings in the area. The largest development in the area is the SF-5 and LC zoned Evergreen Public Park, which is developed with playing fields, tennis and basketball courts, open space, a gym, community buildings, a swimming pool, a library and a private educational building. An electrical substation is also located in the north end of the park. Wichita United School District USD 259 has Cloud Elementary School abutting Evergreen Public Park. A Grace Medical facility is attached to the elementary school. Both the park and school are located southwest of the site, across the 27th Street North and Arkansas Avenue intersection.

CASE HISTORY: BZA 3-81 was a variance request to reduce the required 5-acre minimum for the “G” Mobile Home zoning district (now MH Manufactured Housing {MH}) to 3.5-acres. The owner at the time was asking for the variance prior to requesting a zone change from “A” Single-Family Residential to G. The application for the variance was recommended for denial, resulting in the applicant withdrawing the variance request at the February 24, 1981 Board of Zoning Appeals meeting. The property appears to have been vacant before the 1981 variance case.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, LC	Single-family residences, convenience store, small retail strips, restaurants
SOUTH:	SF-5, TF-3	Single-family residences, apartment, public park, car sales lot
EAST:	SF-5, TF-3	Drainage channel, single-family residences, scattered duplexes
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: North Arkansas Avenue is a paved, two-lane minor arterial at this location with a 60 to 80 feet of right-of-way. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The property appears to have been vacant before the 1981 variance case, as such the proposed TF-3 zoning and subsequent duplex development is in line with the directives of the Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** This is a mature neighborhood with a mix of TF-3 and SF-5 zoned properties, with most of these properties developed as single-family residences and scattered duplexes. LC Limited Commercial (LC) zoned properties are located south and north of the site, at the intersections of 29th Street North and Arkansas and 25th Street North and Arkansas. These LC zoned properties are developed (but not limited to) with small restaurants, a convenience store, retail strip buildings, small commercial buildings, a small two-apartment building, vehicle repair garages, a car sales lot, single-family residences, a market. There appears to be some small vacant commercial buildings in the area. The largest development in the area is the SF-5 and LC zoned Evergreen Public Park, which is developed with playing fields, tennis and basketball courts, open space, a gym, community buildings, a swimming pool, a library and a private educational building. An electrical substation is also located in the north end of the park. Wichita United School District USD 259 has Cloud Elementary School abutting Evergreen Public Park. A Grace Medical facility is attached to the elementary school. Both the park and school are located southwest of the site, across the 27th Street North and Arkansas Avenue intersection.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The vacant site is currently zoned SF-5 and could be developed with a single-family residence or multiple single-family residences.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. TF-3 zoning is common within the surrounding blocks. Duplex development on the site could be better for the neighborhood than a large vacant lot.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in large urban municipality. The property appears to have been vacant before its 1981 variance case, as such the proposed TF-3 zoning and subsequent duplex development is in line with the directives of the Plan.
- (5) **Impact of the proposed development on community facilities:** All services are in place. Any increased demand on community facilities can be handled by existing infrastructure.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

TODD moved, **WARREN** seconded the motion, and it carried (13-0).

8. **Case No.: ZON2016-00017** - Wayne and Donna Wulf (owners/applicants) request a County zone change from GC General Commercial to RR Rural Residential on property described as:

A parcel of land lying in the Northwest Quarter of Section 14, Township 28 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas described as: Commencing at the Northwest corner of said Northwest Quarter Section; thence along the North line of said Quarter Section on an assumed bearing of N 89°25'27" E for a distance of 550.00 feet to the point of beginning; thence continuing along said North line for a distance of 580.00 feet; thence S 00°00'00" E parallel with the West line of said Quarter for a distance of 615.00 feet; thence S 89°25'27" W for a distance of 580.00 feet; thence N 00°00'00" W parallel with the West line of said Quarter for 615.00 feet to the point of beginning.

BACKGROUND: The applicant requests a downzoning from GC General Commercial (GC) zoning to RR Rural Residential (RR) on a 7.44-acre unplatted parcel. The site is located on the south side of West 39th Street South and east of Lake Afton. The site is not within a small city urban growth area. The site was rezoned from RR to GC in 2005 with a Protective Overlay (PO-160) which limits uses on the site to auditorium, restaurant and outdoor recreation. The primary structure on the site was built in 1955. A silo on the site was converted to a climbing wall with additional outdoor recreation features added to the site. The applicants indicate to staff that they have removed the commercial kitchen from the site, they intend to remove the outdoor recreation climbing features and intend to use the site as a single-family residence. The site is on well water and a shared lagoon with property to the south.

All property surrounding the site is also zoned RR. North of the site, across West 39th Street South, is the County firearms training facility. South and east of the site is property owned by Kings Camp Inc. with conditional use CU-332 for a recreational vehicle campground. The County Tax Assessor lists the use of the property south and east of the site as “child and youth services.” West of the site is the Lake Afton County Park.

CASE HISTORY: The site is unplatted, the primary structure on the site was built in 1955. The site was rezoned from RR to GC in 2005 with PO-160.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Firearms training facility
SOUTH:	RR	Child and youth services
EAST:	RR	Child and youth services
WEST:	RR	County park, lake

PUBLIC SERVICES: West 39th Street South is a paved, two-lane arterial street at this location with a 120-foot right-of-way. West 39th Street South has a central turn lane adjacent to the site. The site utilizes shared on-site water and sewer with property to the south. The applicants indicate to staff that they intend to develop on-site water and sewer on their property.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as “rural” and not within any small city growth areas. The “rural” category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** All property surrounding the site is also zoned RR. North of the site, across West 39th Street South, is the County firearms training facility. South and east of the site is property owned by Kings Camp Inc. with conditional use CU-332 for a recreational vehicle campground. The County Tax Assessor lists the use of the property south and east of the site as “child and youth services.” West of the site is the Lake Afton County Park.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned GC and could continue to be used under PO-160 for an auditorium, restaurant and outdoor recreation.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested downzoning, from GC to RR, will create more restrictions on the property lowering potential impacts on surrounding properties.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as “rural” and not within any small city growth areas. The “rural” category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the *Urban Fringe Development Standards for Wichita and Sedgwick County*.
- (5) **Impact of the proposed development on community facilities:** All services are in place. The requested downzoning will reduce demand on community facilities, infrastructure and services.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

TODD moved, WARREN seconded the motion, and it carried (13-0).

9. **Case No.: CON2016-00008** - Chavey Enterprises, LLC, c/o Mark Chavey (applicant/owner) and Baughman Company, PA, c/o Russ Ewy request a City Conditional Use request for an Event Center within 200 feet of a church in GC General Commercial zoning on property described as:

Lot 1, Moose Lodge Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking “conditional use” approval for an “event center” on the GC General Commercial (GC) zoned site, located east of South Webb Road and south of East Kellogg Street. The event center will be offered for rent for private events such as weddings, reunions, anniversaries, birthdays, corporate or charitable events, art shows or similar activities. The event center will provide the options of the serving and consumption of alcohol, providing food and providing music for dancing or entertainment at the events. Per the “Wichita-Sedgwick County Unified Zoning Code” (UZC), an event center is defined as, “...premises that are frequently rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is scheduled”; UZC Sec. II-B.4.i. However the UZC defines an establishment that serves alcoholic beverages for consumption on the site, that may or may not serve food, and that may also provide live entertainment or dancing by employees or patrons as a “nightclub in the city”; UZC Sec. II-B.9.b.

A nightclub in the city is permitted by right in the GC zoning district unless the establishment is located within 300 feet of a church/place of worship, public park, school or residential zoning district, as measured property line to property line. Summit Church abuts the east side of the site, thus a conditional use is required. Applications for such venues, nightclubs with event center like restrictions, have become a fairly regular request of consideration by the MAPC.

The site plan submitted by the applicant depicts the site as it is currently developed. The 1.82-acre site is developed with a 115 paved parking spaces and a 14,250-square foot metal building, which used to house the fraternal organization Moose Lodge. The Moose Lodge ceased operations in 2012 and most of the building has been vacant since then, except for a portion of it being used for storage. The site last held alcohol and entertainment licenses in 2012. The Fire Department list the occupancy at a maximum of 146 when the dance floor is empty and 178 when loose tables and chairs are placed on the dance floor. The applicant proposes an indoor capacity of 178 and outdoor capacity of 165. The parking requirements of one space per three occupants works out to 60 parking spaces for indoor events and 55 spaces for outdoor events.

Compatibility noise standards (UZC, Article IV, Section IV-C.6) prohibit sound amplification systems for projecting music or human voices on any property zoned NO Neighborhood Office (NO) or more intensive if the music and/or voices can be heard within any residential zoning district that is located within a 500-foot radius of the subject site as compared with the applicant's proposed development standard "C." SF-5 zoned single-family residential development is located +/- 300 feet south of the site, across I-35, thus the compatibility noise standards apply.

The abutting north, east and west properties are zoned GC. The Club Rodeo nightclub and Nilla's Place (vacant?) abut the north side of the site. Discount auto sales, a general auto repair business, Groves liquor store, and Car Max auto sales are located further north, northeast and northwest of the site; there is a large concentration of auto sales lots along this section of East Kellogg Street. A paint warehouse abuts the east side of the site. A general vehicle repair shop and an auto parts sale business are located further west of the site. The already mentioned Summit Church abuts the east side of the site with more auto sales lots located further east-northeast. SF-5 Single-Family Residential (SF-5) zoned single-family residential neighborhoods are located +/- 300 feet south of the site, across I-35. The largest single development in the area is the LI Limited Industrial (LI) Beechcraft airplane manufacturing and sales complex (with runways), which is located approximately a quarter-mile north of the site, across Kellogg Street/US-54.

CASE HISTORY: The site is Lot 1, the Moose Lodge Addition, which was recorded with the Sedgwick County Register of Deeds April 15, 1993.

ADJACENT ZONING AND LAND USE:

North: GC Nightclub, car sales lots, liquor store
South: SF-5 I-35, single-family residential neighborhood
East: GC Church, car sale lots
West: GC Paint warehouse, general vehicle repair, auto parts sales

PUBLIC SERVICES: The site has access to Kellogg Street/US-54 Highway frontage, via an ingress-egress easements dedicated by separate instruments; Film 472-Page 178 and Film 1272-Page 1930. The site is served by all utilities.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. The area is developed with large car sales lots, major shopping centers anchored by big box retail (Lowe's and Wal-Mart), commercial strips, and stand-alone retail. The purpose of the GC zoning district is to accommodate retail, commercial, office and other complementary land uses. The GC zoning district is compatible with the new employment classification

The property is located in Area A of the Wichita Airport Hazard Zoning Overlay district that requires buildings over 25 feet in height to receive Federal Aviation Administration approval. The property is located less than a quarter-mile south of the south end of the Beechcraft runway. The Beechcraft airplane manufacturing and sales complex is the largest single development in the area.

RECOMMENDATION: The proposed nightclub has event center restrictions in regards to who and when it is available for use, which would seem to make it less intrusive than the abutting larger (approximately 25,500-square feet) Club Rodeo nightclub, which is open to the general public potentially seven days week. The proposed use would not introduce a new use to the area and would operate in a building that was built by the Fraternal Order of the Moose, which was essentially a private club for members that provided alcoholic beverages, food and music for entertainment and dancing. Based upon information available at the time the staff report was prepared, it is recommended the request for a nightclub-event center be **approved subject to the following conditions:**

1. The permitted occupancy for the indoor events center is limited to 178 persons, and outdoor accommodations, including tents, shall be limited to 165 persons.
2. The facility will be operated similar to an event center where the building or facility is rented out for private activities where the patrons are present by invitation only to attend a scheduled event, where events or activities are not repeated on a weekly basis and where the facility is not open on a daily basis at times other than when an event is scheduled. The purpose of the facility is the hosting of a variety of gatherings where food, beverages (including alcohol), music or dancing may be offered for purposes such as life cycle events (i.e. birthdays, anniversaries, weddings, reunions); corporate or professional functions (i.e. seminars, meetings, lectures, retreats); other special events including charitable events, fundraisers, and art shows; holiday festivities; or photographic shoots; and other similar events.
3. To the extent that the presence of entertainment and/or alcohol, which may technically classify the facility as an “entertainment establishment” or “nightclub in the city”, approval of this “conditional use” shall not be deemed to create or allow a facility which is open to the general public whereby alcoholic drinks and/or cereal malt beverages are sold by individual drink and consumed on the property. No business that is classified as a “drinking establishment,” “tavern,” “class A club,” or “class B club” as defined in Chapter 4.04, et seq., of the city Code of Ordinances shall be allowed.
4. Trash receptacles shall have solid screening around them and a gate made of similar material as the screening and shall not be located within 100 feet of the eastern and southern sides of the site.
5. All Sexually-Oriented Businesses, as currently defined by the Wichita-Sedgwick County Unified Zoning Code, are prohibited.

6. The facility shall obtain, and at all times maintain, a liquor license(s) as are required from the appropriate local and/or State authorities. Outside vendors/caterers shall obtain and maintain at all times while participating in events at the Event Center, a liquor license as required from the appropriate local and/or State authorities.
7. The event center may be open and operated 6:00 a.m. to 2:00 a.m.
8. Tents may be erected a minimum of two hundred feet (200') from the eastern lot line, and subject to compliance with all applicable building and fire code requirements. All tents shall be disassembled and stored indoors within 24 hours of an event.
9. All live music or music provided by a DJ is an option for events and shall be located within a building. Music to accompany wedding ceremonies or other outdoor events shall be at a low volume so as not to be a nuisance. Except for low level music that cannot be heard on neighboring properties, no outdoor musical group or speakers will be allowed within two hundred feet (200') from the eastern lot line. Compatibility noise standards (UZC, Article IV, Section IV-C.6) prohibit sound amplification systems for projecting music or human voices on any property zoned Neighborhood Office (NO) or more intensive if the music and/or voices can be heard within any residential zoning district that is located within a 500-foot radius of the subject site.
10. Access shall be as indicated on the Plan.
11. Landscaping requirements shall be per the Wichita-Sedgwick County Unified Zoning Code.
12. All applicable permits, licenses, inspections or change in use shall be obtained prior to occupancy.
13. The site shall be developed in substantial compliance with the approved site plan. Deviations which in the opinion of the Zoning Administrator, substantially and/or materially differ from the approved site plan shall require the plan to be amended thorough the public hearing process. Amendments, adjustments or interpretations to this Conditional Use shall be done in accordance with the Unified Zoning Code.
14. If the Zoning Administrator finds that there is a violation of any of the provisions or conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The abutting north, east and west properties are zoned GC. The Club Rodeo Bar and Nilla's Place (vacant?) abut the north side of the site. Discount auto sales, general auto repair, Groves liquor store, and Car Max auto sales are located further north, northeast and northwest of the site; there is a large concentration of auto sales lots along this section of East Kellogg Street. A paint warehouse abuts the east side of the site. A general vehicle repair shop and an auto parts sale business are located further west of the site. The already mentioned Summit Church abuts the east side of the site with more auto sales lots located further east-northeast. SF-5 Single-Family Residential (SF-5) zoned single-family residential neighborhoods are located +/- 300 feet south of the site, across I-35. The largest single development in the area is the LI Limited Industrial (LI) Beechcraft airplane manufacturing and sales complex (with runways), which is located approximately a quarter-mile north of the site, across Kellogg Street/US-54.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned GC which permits a very wide range of residential, office, institutional, retail, commercial, uses and a few industrial uses by right. Therefore, it is reasonable to expect that the site could be put to economic use as currently zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The application area is zoned GC which permits a very wide range of residential, institutional, office, retail, commercial, and a few industrial uses by-right. A nightclub/event center subject to the operational and development standards and conditions recommended in the conditional use above may be less intense than the Club Rodeo nightclub abutting the north side of the site.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would provide the public with an additional choice of venue of the type proposed. It is a curious phenomenon that applications for such celebratory venues, nightclubs with event center like restrictions, have become a fairly regular consideration for the MAPC. Denial would presumably represent a loss of economic opportunity to the applicant or property owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. The area is developed with large car sales lots, major shopping centers anchored by big box retail (Lowe's and Wal-Mart), commercial strips, and stand-alone retail. The purpose of the GC zoning district is to accommodate retail, commercial, office and other complementary land uses. The GC zoning district is compatible with the new employment classification

There are also two churches located in the area as well as one large nightclub. A nightclub in the city is permitted by right in the GC zoning district unless the establishment is located within 300 feet of a church/place of worship, public park, school or residential zoning district, as measured property line to property line. Summit Church abuts the east side of the site, thus the conditional use application.

6. Impact of the proposed development on community facilities: Existing facilities are capable of serving the proposed use.

BILL LONGNECKER, Planning Staff presented the Staff Report. He referenced Condition #4 on page 4 of the Staff Report and stated that staff is okay with the requested change to the item regarding trash receptacles to conform to the UZC. He added that he had received no protests or calls against the case. He said DAB II will consider the case next Monday night.

RICHARDSON clarified so there is no limitation on how far east the trash receptacles can be located.

LONGNECKER said there is no limitation in the UZC.

MILLER STEVENS said she would like to hear from the agent.

EWY apologized and said this was a relatively minor issue. He said the provision as originally written made it seem like any trash receptacle, anywhere on the property would have to be provided screening. He said the site is within 150 feet of street right-of-way, which triggers the requirement to screen the trash receptacles. He said they would like screening of the trash receptacles on the site as per the UZC.

MOTION: To approve subject to staff recommendation as amended at this meeting.

WARREN moved, **GOOLSBY** seconded the motion, and it carried (13-0).

NON-PUBLIC HEARING ITEM

CHAIR NEUGENT announced that Commissioner Dailey had requested to speak to the Commission about some changes to the Landscape Ordinance that were made by the City Council but did not come before the Commission for recommendation first.

DAILEY commented that changes to the Landscape Ordinances were made by the City Council. He said one of the main items in the Ordinance says it shall be sent to MAPC for review and comment. He said he talked to staff two weeks ago and was told that the City had been working on those proposed changes for 4-5 years and they didn't even remember when it came to the Planning Department/Planning Commission for review. He said the change corrected capitalization, punctuation and so on but some things were overlooked including references to sections that were deleted with regard to required landscape street yards. He said the most shocking thing is the whole section about MAPC review and comment was deleted out of the Ordinance. He said he wanted the Planning Commission to know that this had happened. He said he has spoken with legal counsel and was assured that some of the items he was concerned about are covered in other ordinances.

DICKGRAFE indicated that she has been asked to review the ordinances to determine what exactly happened and what changes need to be made if any. She said she would report her findings back to the Planning Commission as soon as she is through reviewing the 783 pages.

CHAIR NEUGENT thanked Commissioner Dailey for bringing the matter to the Commission's attention. She said she felt it would be nice if the Planning Commission had been asked or notified if they were not going to be responsible for landscape review anymore.

GOOLSBY (Out @3:20 p.m.)

FOSTER said he has seen blatant non-compliance with the Landscape Ordinance all over town. He referenced a report he submitted to MABCD five years ago, and noted that to date nothing has occurred to correct the situation. He said on his "to do" list he is going to go around and take photographs of dozens of sites that are in non-compliance of the Landscape Ordinance and forward them to staff for appropriate action.

DAILEY said staff provided a delineated copy of the Ordinance which is available for any of the other Commissioners who are interested in receiving a copy.

DICKGRAFE clarified that the Planning Commission is mainly interested in the landscape portion of the Ordinance.

DAILEY said mainly Chapter10.

FOSTER commented since the County Manager was present he wanted to mention for the record the exemplary counsel the Planning Commission received from retired County Assistant Attorney Robert Parnacott. He said he wanted to thank him for his unbelievable service to this body.

CHAIR NEUGENT said Mr. Parnacott walked the Commission through many situations and handled it very professionally.

The Metropolitan Area Planning Commission adjourned at 3:24 p.m.

State of Kansas)
Sedgwick County) ss

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2016.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)